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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,048	09/13/2002	Olle Straat	03485.0003NP	2585
28694	7590	08/06/2004	EXAMINER	
TRACY W. DRUCE, ESQ. 1496 EVANS FARM DR MCLEAN, VA 22101			TRAN, LOUIS B	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/065,048	<b>Applicant(s)</b> STRAAT ET AL.	
	<b>Examiner</b> Louis B Tran	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.  
2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 7-19 rejected under 35 U.S.C. 102(b) as being anticipated by Hurkmans et al. (3,524,575).

With respect to claims 1, 14, and 16, Hurkmans et al. shows a staple forming device for a stapler of the type in which staples are driven by a driver blade into a workpiece comprising a main body portion 85,94,95 including a first leg-bending portion 94 and a second leg-bending portion 95 interconnected with an intermediate crown-forming portion 96 having a stamping surface; a drive means for driving said stamping surface from a starting position of a staple-forming motion in which the staple forming device is brought against the bending die 118.

Hurkamns also shows the first and second leg-bending parts bending the staple blank into a staple shape over the bending die, and a drive means, a driver blade 97, and said crown-forming portion being displaceably interconnected by an elastic element or biasing means or take up device 86 (as in claims 1 and 16). Biasing means 86 applying outwardly directed forces between a staple crown forming portion and main body portion 85 (as in claim 14).

With respect to claim 2, Hurkmans et al. shows a staple-crown forming portion 96 securing in at least on guide arrangement to said main body portion 85 and configured for reciprocation.

With respect to claim 3 and 4, Hurkmans et al. shows a gap space provided between said main body portion 85 and said staple crown-forming portion 96, gap space provided between a main body portion 85 and said staple crown-forming portion 96, gap configured to accommodate reciprocating motion between crown forming portion and main body portion (as in claim 3). Hurkmans et al. also shows an elastic element 87 interconnected across a gap form biasing a crown-forming portion away from a main body portion (as in claim 4).

With respect to claims 5, 7, and 8, Hurkmans et al. shows a driver blade 97 interconnected with said main body portion of said staple forming arrangement and staple crown-forming portion being adjacently positioned or abuttingly engaged to a driver blade and arranged for reciprocation relative to each other.

With respect to claim 9, Hurkmans et al. shows a driver blade 97 interconnected with a main body portion 85 of said staple forming arrangement, said driver blade and said main body portion being of sheet construction; and said driver blade being located substantially on a common plane with said main body portion.

With respect to claims 10 and 11, Hurkmans et al. shows at least one or two leg-bending portion positioned along side said staple crown-forming portion on either of two lateral sides.

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With respect to claim 12, Hurkmans et al. teaches an elastic element 86 being at least partially hairpin shaped as in Figure 4.

With respect to claim 13 and 17, Hurkmans et al. teaches an elastic element being a leaf spring as in column 5, line 53.

With respect to claim 15 Hurkmans et al. teaches a biasing means 86 having sufficiently low biasing strength for permitting said crown-forming portion to retract toward said main body portion after a staple blank has been bent into a staple shape and as said main body portion continues to travel toward the bending die described in column 5, lines 50-75.

With respect to claim 18, Hurkmans et al. teaches a crown forming portion 96 being secured to said main body portion 85 by a first and second guide arrangement (seen in Figure 6), each of which are configured for facilitating reciprocation of said crown-forming portion relative to said main body portion.

With respect to claim 19, Hurkmans et al. teaches an integrated driver blade as seen in Figure 9.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hurkmans et al. (3,524,575).

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Hurkmans et al. discloses the claimed invention except for the driver blade being integrally formed with the main body portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide integration of parts, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

### **Conclusion**

5. Applicant's remarks have been fully considered but are deemed moot in view of the grounds of rejection.

Applicant has overcome previous 112 2<sup>nd</sup> paragraph issue by more clearly defining the relationship between parts but has not overcome the substantive rejections.

Applicant contends that a main body portion cannot be construed to include leg bending portions (as newly amended) since Hurkmans et al. item 85 does not include leg bending portions.

However, the main body portion can generally be defined by items 85, 94, and 95 as necessitated by applicant's amendment to the claims.

Applicant also contends that Hurkmans et al. fails to teach an elastic element interconnected between said main body and said staple crown-forming portion.

However, Examiner contends that Hurkmans et al. does show items 86/87 which is a spring "interconnected" between said main body portion and crown forming portion.

For the reasons above, the grounds of rejection are deemed proper.

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6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lbt



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